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October 4, 2005

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
455 12th Street, S.W.
Washington, D.C. 20554

Via ECFS

**Re: American Cable Association ("ACA"); Notice of Ex Parte Presentation; EB
Docket No. 04-296**

Dear Ms. Dortch:

Under 47 CFR § 1.1206(b), we electronically provide this notice of an ex parte oral presentation in EB Docket No. 04-296. On September 26, 2005, Christopher C. Cinnamon and Emily A. Denney of Cinnamon Mueller, outside legal counsel to the ACA, met with Jordan Goldstein, legal advisor to Commissioner Michael J. Copps.

The purpose of the meeting was to discuss ACA's Petition for Rulemaking on retransmission consent, program access, small system EAS, and ACA's Comments recently filed in the Commission's competition proceeding. The presentation included a discussion of a handout summarizing these issues. We attach a copy of that handout to this letter.

Sincerely,



Emily A. Denney

cc via email:

Jordan Goldstein (Jordan.Goldstein@fcc.gov)

goldstein ex parte 100405



Key FCC issues for small and medium-sized cable companies – 2005/2006

Retransmission Consent

Main issue: Broadcasters are targeting small and medium-sized cable companies for unprecedented fees – between \$0.50 - \$1.00 per subscriber per month. This threatens to add at least \$1 billion to the cost of basic cable during the next retransmission consent cycle.

ACA action:

Petition for Rulemaking

Requests limited adjustments to regulations to provide mechanism to “price” retransmission consent. Requests adjustments to retransmission consent and exclusivity regulations that would allow small and medium-sized cable companies to carry out of market network stations in limited circumstances. Requested changes would affect only 8% of TV households.

Strong support for Petition. The comment and reply cycle concluded on May 3, 2005. Resulted in a detailed record with filings from interest groups representing 2,500 smaller cable and telecommunications companies, over 50 individual small and medium-sized cable companies, and a small broadcast station group owner.

Video Competition Report

Changes to competitive landscape – DBS dominates. DBS now the dominant MVPD in smaller markets. Research shows DBS serves 55% of MVPD customers in rural markets.

Retransmission consent and wholesale programming practices hurt competition in smaller markets. Retransmission consent and wholesale programming practices place small and medium-sized cable companies at a disadvantage to DBS competitors.

Reform of broadcast signal carriage laws necessary to preserve competition in smaller markets. Comments ask for retransmission consent reform, right to offer separate broadcast tier like DBS, and right of access to local-into-local signals.

SHVERA Report

Comments filed describing how retransmission consent and exclusivity are being used to raise costs for smaller and medium-sized cable companies.

SHVERA Report expresses concern that changes to exclusivity may affect broadcast localism. Suggests adjustment of small system exception to exclusivity rules.

Program access

Main issue: Wholesale programming practices require carriage of, and payment for, affiliated programming to obtain “must have” programming. Price discrimination results in programming costs 20% - 55% higher for small and medium-sized cable companies.

ACA Action:

A la carte Report

ACA submitted detailed comments and testimony concerning wholesale programming practices and the effects on small and medium-sized cable companies. Report recognized that wholesale practices may harm consumers, but stopped there.

Family friendly expanded basic. ACA described how many member companies want to offer more choices to consumers, including a more family friendly, lower cost, expanded basic tier. They are prevented by the wholesale programming practices of the major media companies – tying, forced bundling and non-cost based price discrimination.

Video Competition Report

Family friendly expanded basic. ACA reiterated how smaller MVPDs want to offer more choices, including a more family friendly, lower cost, expanded basic tier. Wholesale programming practices prevent this.

Access to local-into-local signals

Main issue: Some rural systems cannot receive good quality signals over the air. In local into local markets, the systems could obtain good quality broadcast signals from DBS. The DBS providers refuse to deal.

ACA action: ACA has raised this issue in the *SHVERA Report* and the pending *Video Competition* proceeding. ACA proposes a right of access to local into local signals on nondiscriminatory prices, terms and conditions for those small cable systems that cannot receive a good quality signal off-air.

Small system EAS

Main issue: EAS equipment costs have not come down. Equipment costs impose financial hardship on systems serving 1,000 subscribers or less.

ACA action: In pending EAS rulemaking, proposed adjustments to regulations for systems serving 1,000 subscribers or less. Would require very small systems to pass through EAS signals from broadcasters and programmers and notify subscribers of channels carrying EAS information.

On September 23, Enforcement Bureau extended all existing small system waivers until March 1, 2006.